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In re Application of
KNIGHT (deceased) et al.
Serial No.: 10/585,829
PCT No.: PCT/AU04/01733
Int. Filing Date: 10 December 2004
Priority Date: 13 January 2004
Atty. Docket No.: MOR3-PT023
For: BRIDGING BEAM

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: DECISION ON
:
: DECLARATION
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: UNDER 37 CFR 1.42
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:

This is in response to applicant's Declaration which was filed in the United States Patent and Trademark Office on 16 July 2009.

BACKGROUND

On 13 June 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 12 November 2008, applicant filed a declaration executed by two of three inventors named in the international application along with the \$65 surcharge for filing the declaration after the thirty month period and a request for an extension of time. The declaration was allegedly executed by the apparent heir to a deceased inventor.

On 27 January 2009, a decision was mailed indicating that the declaration was unacceptable under 37 CFR 1.497 (a) and (b). On 27 April 2009, an incomplete declaration was filed. On 02 July 2009, a decision was mailed indicating that the declaration was incomplete (supplemental page only) for deceased inventor and did not meet the requirements of 37 CFR 1.497(b). Although the declaration identified Beverly Anne Knight as the legal representative, it did not identify John Keith Knight as the deceased inventor.

DISCUSSION

As previously stated, 37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address

of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The executed declarations submitted on 16 July 2009, identified the inventors as John Keith Knight (deceased), Robert Edwin Randell and Carmel Geraldine Chell. The declaration also identifies the deceased inventor's widow as the legal representative of the estate.

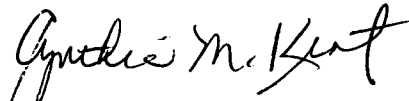
The requirements of 37 CFR 1.497 (a) and (b) have now been met and the declarations are acceptable as filed. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42. The declaration is acceptable under 37 CFR 1.497 (a) and (b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The declarations executed by the joint inventors and by the legal representative for deceased inventor John Keith Knight submitted on 16 July 2009 are accepted as a proper declaration under 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 16 July 2009.



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